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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,936	04/24/2002	Yasushi Watanabe	02500.000010	8758
5514	7590	12/30/2003	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			GORMAN, DARREN W	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	

3752

DATE MAILED: 12/30/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/019,936

Applicant(s)

WATANABE ET AL.

Examiner

Darren W Gorman

Art Unit

3752

CLO  
19

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-10 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) 2-4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto et al., European Patent Application EP0815931, in view of Daley, USPN 3,501,097.

Morimoto discloses a powdered material spraying device comprising: a powdered material storage hopper (2) for storing a powdered material (h), the storage hopper having a material discharge port (no reference number) and a material feed port (no reference number), the material feed port bearing an airtight, detachable cover (no reference number), a quantitative spraying device (no reference number) provided for the material discharge port of the powdered material storage hopper via a material feed valve (21), the quantitative spraying device comprising: a cylindrical body (no reference number) with openings at a top end (no reference number) and at a lower end (no reference number) respectively, the cylindrical body being airtightly connected at the top end with the material discharge port of the powdered material storage hopper, an elastic membrane (3) with a penetrating aperture (3a) provided so as to form a bottom (no reference number) of the cylindrical body at its lower opening end, and a dispersion chamber (6) connected under the lower opening end of the cylindrical body via the elastic membrane, wherein the dispersion chamber comprises: a pulsating vibration air supply port

Art Unit: 3752

(outlet end of 10) for supplying a positive pulsating vibration air to the dispersion chamber, and a discharge port (inlet of 11) connected with a conduit (11) for pneumatically transporting the powdered material to a tableting machine by means of the positive pulsating vibration air, the powdered material being discharged into the dispersion chamber via the penetrating aperture when the elastic membrane is vibrated up and down by the positive pulsating vibration air supplied in the dispersion chamber from the pulsating vibration air supply port and being dispersed by the positive pulsating vibration air supplied in the dispersion chamber (see Figures 1-3 and 5-6).

However, Morimoto does not disclose a bypass pipe connected between the cylindrical body and the dispersion chamber through which air moves freely between the cylindrical body and the dispersion chamber during spraying operation, so as to equalize air pressure between the cylindrical body and the dispersion chamber.

Daley teaches a powdered material spraying device comprising a powdered material storage hopper (1) having a powdered material feed port and a powdered material discharge port (12) with a powdered material discharge valve (13) for selectively releasing material into a cylindrical body (20) (see Figures 1-3). The powdered material is then fed from the cylindrical body through a powder flow passage to a dispersion chamber (39) where incoming carrier gas mixes with the powdered material (see column 4, lines 40-46). Daley also teaches the powdered material spraying device wherein a bypass pipe is connected between the cylindrical body (20) and the dispersion chamber (39) through which air moves freely between the cylindrical body and the dispersion chamber during spraying operation, so as to equalize air pressure between the

Art Unit: 3752

cylindrical body and the dispersion chamber (see Figures 1-3; and column 4, lines 48-60, and column 6, lines 6-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the powdered material spraying device of Morimoto to include a free-flowing pressure-equalizing bypass pipe between the cylindrical body and dispersion chamber, as taught by Daley, in order to prevent pressure differential factors in the system from effecting the powder feed.

#### *Allowable Subject Matter*

3. Claims 5-10 are allowed.
4. Claims 2-4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W Gorman whose telephone number is 703-306-4205. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 703-308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9302.

Art Unit: 3752

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

Darren W Gorman  
Examiner  
Art Unit 3752

DWG 12/18/03  
DWG  
December 18, 2003

  
Gene Mancera  
Supervisory Patent Examiner  
Group 3700